



ARKANSAS JUDICIARY

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Rule 71. Process In Behalf Of And Against Persons Not Parties.

When an order is made in favor of a person who is not a party to the action, he may enforce obedience to the order by the same process as if he were a party; and, when obedience to an order may be lawfully enforced against a person who is not a party, he is liable to the same process for enforcing obedience to the order as if he were a party.

Reporter's Notes to Rule 71: - 1. Rule 71 is identical to FRCP 71. The Federal Rule has remained unchanged since its adoption and has provoked little controversy. It does not attempt to say when an order can be made in favor of or against a person not a party. Rather it merely provides that when this can be done, non-parties have recourse to, and are subject to, process in the same manner as parties. Wright & Miller, Federal Practice and Procedure, Section 3031.

2. Prior Arkansas law contained no comparable provision. Normally, under prior law, a judgment, order or decree was ineffective against a person not a party to the action. Superseded Ark. Stat. Ann. 29-107 (Repl. 1962). There are situations, however, where even without specific statutory authority, the Arkansas courts have permitted a non-party to enforce an order or to enforce an order against a non-party, i.e., where an assignee of a purchaser at a judicial sale obtains a writ of assistance or where an injunction is enforced against a non-party who has knowledge of the provisions of the order. *Hudkins v. Ark. State Bd. of Optometry*, 208 Ark. 577, 187 S.W.2d 538 (1945); *Hickinbotham v. Williams*, 228 Ark. 46, 305 S.W.2d 841 (1957).

Associated Court Rules:

Rules of Civil Procedure

Group Title:

VIII. Counsel; Provisional and Final Remedies; Suits in Forma Pauperis

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